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Message Text

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PAGE 01 BERLIN 01647 191630Z

50
ACTION EUR-25

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C O N F I D E N T I A L BERLIN 1647

EO11652: GDS
TAGS: PGOV, WB. GE, GW, UR
SUBJECT: BRUECKMANN CASE--PRESS COMMENT; SENAT
REACTION TO BK/O AND BK/L

REFS: A) STATE 202763 B) BERLIN 1628 C) BONN 14708

1. "DER TAGESSPIEGEL" CARRIES SEPTEMBER 19 HALF-COLUMN
REPORT ON INSIDE PAGE ON INTRODUCTION BY SPD-FDP IN
BUNDESTAG'S JUDICIARY COMMITTEE OF AMENDMENT TO 1953 LAW ON
INNER-GERMAN JUDICIAL COOPERATION IN CRIMINAL MATTERS INTENDED
TO PERMIT RESOLUTION OF BRUECKMANN AFFAIR. CALLING DRAFT
AMENDMENT DECISIVE TURNING POINT IN CASE, ARTICLE NOTES DRAFT
WAS WORKED OUT JOINTLY BY GOVERNMENT AND BERLIN SENAT AND
HAS RECEIVED ALLIED APPROVAL. ARTICLE ACCURATELY DESCRIBES
AMENDMENT, NOTING IN PARTICULAR THAT IT WILL GIVE PUBLIC
PROSECUTORS AND HIGHEST LAND COURTS ADDITIONAL AUTHORITY
TO REOPEN EXTRADITION CASES UPON INTRODUCTION OF NEW FACTS,
AND THAT FOR FIRST TIME APPEAL WOULD BE
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PAGE 02 BERLIN 01647 191630Z

PERMITTED OF DECISION BY HIGHEST LAND COURT TO BUNDESGERICHTSHOF.

Declassified/Released US Department of State EO Systematic Review 30 JUN 2005

Declassified/Released US Department of State EO Systematic Review 30 JUN 2005

STORY REPORTS THAT ACCORDING TO GOVERNMENT CIRCULES "THE
DECISION OF THE FEDERAL CONSTITUTIONAL COURT ON THE CONSTITUTIONAL
COMPLAINT OF BRUECKMANN CAN NOT BE TAKEN AS A NEW FACT."
TAGESSPIEGEL ALSO NOTES THAT, UNLIKE DRAFT INTRO-
DUCED LAST SPRING BY CDU-CSU, THERE IS NO RETROACTIVITY CLAUSE
THAT WOULD PERMIT BRUECKMANN TO APPEAL KAMMERGERICHT DECISION
TO BUNDESGERICHTSHOF. BERLIN CDU REP KUNZ IS QUOTED
AS EXPECTING UNANIMOUS JUDICIARY COMMITTEE APPROVAL OF
GOVERMENT AMENDMENT SEPTEMBER 25 "TAGESSPIEGEL" CONCLUDES THAT
GOVERNMENT CIRCLES NOW EXPECT THAT BRUECKMANN WILL ULTIMATELY BE
TRIED BEFORE WEST BERLIN COURT.

2. COMMENT: TAGESSPIEGEL ARTICLE STRIKES US AS BOTH ACCURATE
AND HELPFUL IN PINNING DOWN BERLIN AUTHORITIES' RESPONSIBILITY
BOTH FOR DRAFT AMENDMENT AND FOR ULTIMATE RESOLUTION OF CASE
WITHOUT REFERENCE TO CONSTITUTIONAL COURT'S DECISION OF LAST
MARCH OR TO BUNDESGERICHTSHOF. EARLY APPEARANCE OF STORY
ALSO MAKES IT SOMEWHAT MORE LIKELY WE WILL GET RELATIVELY
EARLY SOVIET COMMENT. STORY MAKES IT EVEN LESS NECESSARY,
IN OUR VIEW, FOR BONN GROUP TO INSIST THAT SENAT PROVIDE
FORMAL WRITTEN ASSURANCES THAT BERLIN PUBLIC PROSECUTOR
WILL NOT BASE ANY ACTIONS HE TAKES PURSUANT TO NEW LAW ON
CONSTITUTIONAL COURT DECISION. END COMMENT.

3. FRENCH MISSION HAS ADVISED US THAT
SENAT CHANCELLERY HEAD HERZ EXPRESSED UNHAPPINESS SEPTEMBER 18 AT
DRAFT BK/L AND BK/O ON BRUECKMANN LEGISLATION.
WE UNDERSTAND SENAT WILL PROVIDE ITS COMMENTS
IN MEMORANDUM SEPEMBER 19.KLEIN

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